DOCUMENT RESUME

ED 460 517 EC 306 893

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TITLE	Essential Elements of Child Protection Mediation.
PUB DATE	1996-02-00
NOTE	7p.; In: A System of Care for Children's Mental Health: Expanding the Research Base. Proceedings of the Annual Research Conference (9th, Tampa, FL, February 26-28, 1996); see EC 306 844.
AVAILABLE FROM	For full text: http://rtckids.fmhi.usf.edu/Proceed9th/9thprocindex.htm.
PUB TYPE	Reports - Research (143) -- Speeches/Meeting Papers (150)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Child Abuse; *Child Neglect; Child Welfare; *Conflict Resolution; *Family Attitudes; *Family Programs; Family Relationship; Foreign Countries; Intervention; Interviews; *Program Effectiveness
IDENTIFIERS	Child Protective Services; *Mediation; Neutrality

ABSTRACT

This study investigated the effectiveness of the process of mediation in child protection (CP) and the essential aspects which may contribute to developing more effective working relationships with child welfare families. The study focused on neutrality, one of the primary aspects of CP mediation. Interviews were conducted with 17 adult family members, mediators, and child protection workers who had been directly involved in five mediation cases. Six pre-mediation interviews and six additional interviews were also conducted with family members and child protection workers (CPW) from three non-mediation comparison cases. Participants were asked to describe their experience with CP interventions, including investigations, social casework, case conferencing, solution focused therapy, and child protection court. Participants identified ten distinct essential elements: alliance, bringing parties together, facilitating communication, keeping peace, developing options, enhancing understanding, focusing the parties, contracting, neutrality, and fairness. Comparison with non-mediation cases suggested that many elements, although essential to mediation, were not necessarily unique. CPWs involved in case conferencing and solution-focused interventions utilized techniques similar to those used by mediators. However, mediator neutrality was found to be unique to CP mediation. (Contains 20 references.) (CR)

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ED 400 817

The 9th Annual Research Conference Proceedings. A System of Care for Children's Mental Health: Expanding the Research Base (February 26 - 28, 1996).

Essential Elements of Child Protection Mediation

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Introduction

The rapid growth of mediation in fields as diverse as divorce mediation and commercial dispute resolution has raised the interest of a growing number of child welfare service providers and scholars interested in finding a more constructive process for developing collaborative service plans with families and youth (Mayer, 1987). Several jurisdictions have already introduced mediators at various levels of the child protection system (Barsky, 1995a; Thoennes, 1994; Savoury, Beals, & Parks, 1995). Mediation is proposed by some advocates as a more effective method for engaging families in treatment (Bernstein, Campbell, & Sookraj, 1993). Others argue that it could produce major time and cost savings by avoiding protracted court hearings (Morden, 1989). Yet others maintain that mediation provides a basis for empowering families and ensuring that child protection services proceed in a manner that is least intrusive to families and children (Regehr, 1994; Wildgoose, 1987).

Most writings to date have focused either on developing a rationale for using mediation in child protection (Eddy, 1992; Palmer, 1989) or on evaluation of various programs (Campbell & Rodenburgh, 1994; Centre for Policy Research, 1992; Wildgoose & Maresca, 1994). However, there has been insufficient work describing the process of child protection (CP) mediation, and analyzing ways in which mediation can be integrated into child protection services. Accordingly, this study was designed to provide an in depth understanding of the process of mediation in child protection, and to identify the essential aspects which may contribute to developing more effective working relationships with child welfare families. This study focuses on neutrality, one of the primary aspects of CP mediation identified by the research participants. This study is distinct from prior studies because it entails the use of extensive interviews with family members, as well as with professionals involved in mediation and other CP processes.

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An analysis of their experiences contributes to the child welfare and mediation literature: (a) by beginning to determine the critical experiences of parties involved in the different processes, (b) by developing a framework delineating the essential aspects of the mediation process that are unique to mediation, and (c) by identifying mediative skills and strategies that can be employed in other areas of child protection services.

Methods

In order to develop a better understanding of the dynamics of child protection mediation, this study used naturalistic inquiry methods (Denzin & Lincoln, 1994). The author conducted a series of exploratory "long interviews" (McCracken, 1988) with 17 adult family members, mediators, and child protection workers (CPWs) who had been directly involved in five mediation cases. The primary strategy of these interviews was to have research participants discuss what they felt were the critical issues in their experiences with mediation. Six pre-mediation interviews, and six additional interviews were also conducted with family members and CPWs from three non-mediation comparison cases. The author asked participants in these interviews to describe their experiences with CP interventions, including investigations, social casework, case conferencing, solution focused therapy, and child protection court. The experiences of the research participants in the pre-mediation interviews and in the non-mediation cases provided the contrast points used in identifying the essential aspects of mediation (Spradley, 1979).

Mediation cases were sampled on the basis of availability and willingness to participate from a pool of approximately 30 mediation cases seen by the Center for Child and Family Mediation in Toronto. The Centre offers mediation to Toronto families who are involved in the child protection system. In terms of demographics of research participants, most families involved in both the mediation and non-mediation cases were headed by a single mother who was either receiving government assistance or earning less than $30,000.00 annually. All but one family had either one or two children. These demographics are consistent with the general population of families involved in child protection mediation in Toronto.

The sample of non-mediated cases was drawn purposefully on a case-by-case basis by having CPWs from the mediation sample identify matching cases from their own caseload. Selection was done to ensure that the comparison cases matched the mediation cases in terms of demographic profiles, type and severity of maltreatment, placement status, and level of involvement by participants in the case planning process. In terms of ethnicity, families in the mediation sample included people from European, African, and mixed Euro-African backgrounds. All of the families in the non-mediation sample came from Euro-Canadian

the non-mediation sample came from Euro-Canadian backgrounds. Matching for ethnicity was not prioritized, because both mediators and child protection workers suggested that the most important factor to consider was the type of intervention used in the non-mediation cases. Therefore, the investigator tried to select comparison cases in which mediation-like interventions were employed.

The interviews were audio-taped and transcribed. In a situation where a parent asked not to be taped, written notes were used to develop a transcript. Each interview was read, re-read and analyzed as it was completed, rather than waiting to analyze all of the interviews together. Key themes and patterns from the interviewees' perspectives were identified from the transcripts (Lincoln & Guba, 1985; Taylor & Bogden, 1984). The interview guides were altered for subsequent interviews in order to further explore important topics and perspectives raised by interviewees that had not originally been identified by the researcher. McCracken's five-stage model for data analysis was employed (McCracken, 1988). The transcribed texts were processed for analysis with the Ethnograph (Seidel & Clark, 1984) computer software package. Lincoln & Guba's (1985) method for establishing trustworthiness was used throughout the study. "Credibility," "transferability," "dependability," and "confirmability" (the qualitative research equivalents of internal validity, external validity, reliability and objectivity) were each considered.

Results

During the initial stage of analysis, the researcher attempted to identify as many themes as the participants' data indicated. This effort resulted in a broad base of 92 themes. Many of these themes overlapped, and some of them did not prove to be significant in later analysis. However, since the purpose of the study was to look at mediation from the participants' perspectives, it was beneficial to start with a broad identification of themes. The initial themes were loosely categorized into nine pools (Barsky, 1995a): 1) Intentions and Concerns of the Parties; 2) Mediation Interventions; 3) Dynamics between the Parties; 4) Appropriateness for Mediation; 5) Comparisons made by the Parties; 6) Roles of the Parties; 7) Factors Affecting Decisions; 8) Outcomes; and 9) Impact of the Research.

In the next stage of analysis, ten essential elements of the mediation process were identified. These elements were derived in part from the aspects of mediation that mediation participants identified as being most important. There were also certain recurring elements that the parties did not specifically identify as most important, but which emerged implicitly as defining features of their experiences in the mediation process. One of the difficulties in this process was isolating elements that the interviewer may have suggested through the use of leading questions. For this purpose, it was useful to look at the early portions of the interview where the interviewer asked more general

interview where the interviewer asked more general questions. Eventually, ten distinct essential elements were identified: 1) alliance, 2) bringing parties together, 3) facilitating communication, 4) keeping peace, 5) developing options, 6) enhancing understanding, 7) focusing the parties, 8) contracting, 9) neutrality, and 10) fairness. Comparisons with non-mediation cases suggested that many of these elements, though essential to mediation, were not necessarily unique. CPWs involved in case conferencing and solution-focused intervention utilized techniques similar to those used by mediators. However, mediator neutrality was found to be unique to CP mediation.

Discussion

Child protection mediation is a peculiar use of mediation, given that one of the clients is a professional who traditionally assumes a mediation role in his/her own work. When suspicions of child abuse or neglect are brought to the attention of a child protection agency, the assigned worker is mandated to investigate and intervene in order to ensure that the child is not at risk. In the context of child protection, a worker could mediate between disputing family members about how they will share responsibility for a child's needs. Similarly, a worker could mediate between parents and foster parents about how and when the parents will spend time with the child. But is a child protection worker truly able to function as a neutral third party? For CP mediation to have value as a distinct intervention, it needs to be defined in a way that is different from just "good clinical practice" by CPWs. Otherwise, a CPW could fulfill the role, making the use of an independent mediator redundant (Barsky, 1995b). One of the major findings from the present research was that neutrality does differentiate the role of a mediator from the role of a CPW.

Although the present research was not intended to evaluate the effectiveness of CP mediation, research participants tended to volunteer positive feedback on their experiences in mediation. In particular, informants reported that mediation helped them to resolve issues without going to court, helped build a more positive relationship between family members and the agency, and gave all parties a sense of being heard and treated fairly. CP mediation is not a panacea, as noted by the frustration of some parties in cases that did not settle. However, given the efficacy of mediation in this small sample of cases, further study is warranted.

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Liberton, C., Kutash, K., & Friedman, R. M. (Eds.). (1997). The 9th Annual Research Conference Proceedings, A System of Care for Children's Mental Health: Expanding the Research Base (February 26 - 28, 1996). Tampa, FL: University of South Florida, Louis de la Parte Florida Mental Health Institute, Research & Training Center for Children's Mental Health.